



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF  
CALIFORNIA**

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Order Instituting Rulemaking into the Review of the  
California High Cost Fund B Program

R.06-06-028

**COMMENTS OF THE UTILITY REFORM NETWORK ON INTERIM OPINION  
IMPLEMENTING CALIFORNIA ADVANCED SERVICES FUND**

December 10, 2007

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## **SUMMARY OF RECOMMENDED CHANGES**

As currently configured in the Proposed Decision (“PD”), the CASF is not consistent with statutory limitations and is thus illegal.

The Commission should reject the Proposed Decision and work with the Legislature to craft a new fund and ratepayer surcharge to support broadband deployment.

If the Commission proceeds to implement the CASF at this time it must make significant modifications to the PD

- A. Modify the benchmark broadband speeds
- B. Eliminate the restriction that grant applicants must be “telephone corporations” with certificates of public convenience and necessity
- C. Eliminate the requirement that grant applicants must offer a “basic voice service” and eliminate the re-definition of basic service
- D. Require applicants to propose affordable prices for CASF services that the Commission will set based on Commission staff analysis
- E. Include auditing and accounting safeguards to ensure “pure” B-Fund monies are not mingled with CASF monies

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Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure The Utility Reform Network (“TURN”) submits these Comments on the Interim Opinion Implementing the California Advanced Services Fund.

**I. INTRODUCTION**

TURN supports rational, carefully developed proposals to encourage broadband deployment and efforts to bridge the digital divide. However, the Commission has failed to develop such a program. By rushing to implement a broadband program in an extremely truncated time frame, and engaging in numerous contortions in a futile attempt to pass legal muster, the Proposed Decision (“PD”) sets out a roadmap for broadband deployment that is both anticompetitive and fails to truly address the needs of Californians in areas unserved by broadband. The California Advanced Services Fund (“CASF”) as envisioned in the Interim Opinion or PD is based upon faulty legal grounds. In addition to violating Public Utility Code (“P.U. Code”) § 270, the PD, without an adequate record, would create a new standard of universal service and lower standard for

basic voice service only for those California consumers who reside in areas to be served by CASF-funded carriers.

TURN continues to urge the Commission to work with the Legislature to craft a new fund and ratepayer surcharge to support broadband deployment. TURN submits that by working with the Legislature to create a mechanism specifically designed for broadband deployment the ultimate program would be far superior than that proposed by the PD, which is inherently limited due to the need to force fit such deployment into the B-Fund paradigm.

However, if the Commission decides to go forward with the CASF absent specific statutory authorization, ratepayer subsidization of broadband deployment should be accomplished in a manner that will produce the greatest benefits. The PD must be substantially changed to achieve such an outcome. TURN respectfully urges the Commission to seriously reconsider its approach consistent with recommendations presented below.

## **II. DESPITE THE PD’S PROTESTATIONS TO THE CONTRARY, THE FUNDING APPROACH OF THE CASF IN THE PD IS A SIPHONING OF CHCF-B FUNDS TO PURPOSES NOT CONSISTENT WITH STATUTORY LIMITATIONS AND IS THUS ILLEGAL**

### **A. The Use of the CHCF-B Line Item Surcharge to Fund CASF is a Violation of the P.U. Code**

The PD asserts that “[a]s the CASF is not a transfer or diversion of funds to another fund or entity but is an expansion of an existing program, the limitations of § 270 do not apply.”<sup>1</sup> The PD describes what it is proposing as “redesignating half of the B-Fund surcharge contribution for the CASF”<sup>2</sup> with the CASF \$100 million to be “allocated” from the CHCF-B.<sup>3</sup> No matter what the PD wants to call it, at the end of the day, what the Commission will be doing if it approves the PD is taking dollars from the CHCF-B and using that money to subsidize broadband deployment, essentially to support incumbent carriers (a point that will be discussed *infra*). As TURN and many parties in

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<sup>1</sup> Interim Opinion Implementing California Advances Services Fund, 11/20/2007, Conclusion of Law (“COL”) 8 (“PD”).

<sup>2</sup> PD, Findings of Fact (“FOF”) 8 and COL 6.

<sup>3</sup> PD, p. 23

this proceeding have argued<sup>4</sup>, siphoning B-Funds for broadband violates the Public Utility Code restrictions found in all sections relating to subsidies for various aspects of universal service that, “moneys in each fund may not be appropriated, or in any other manner, transferred or otherwise diverted, to any other fund or entity...”<sup>5</sup> and that “any revenues that are deposited in funds created pursuant to this chapter shall not be used by the state for any purpose other than as specified in this chapter.”<sup>6</sup> Thus, P.U. Code § 270 declares that the monies from the CHCF-B fund must be used to support the provision of universal telephone service, i.e. basic service, by “telephone corporations” in high cost areas – not to subsidize broadband deployment anywhere in California. The PD’s proposal to use half of the money collected through the B-Fund line item surcharge for this purpose is illegal.

The PD attempts to justify this redesignation and allocation of B-Fund monies on the basis that the Commission would merely be “expanding” the existing universal service program of supporting high-cost areas. The logic for this conclusion appears to rest upon the notion that since the purpose of subsidy programs such as the B-Fund is to ensure the availability of universal service in high-cost areas, and since basic telephone service can be provided by broadband technologies, *ergo*, using B-Fund monies to fund broadband is merely an expansion of the B-Fund program. The PD attempts to shore up its logic by requiring any CASF recipients to “offer a basic voice grade service to customers within the service area of the broadband deployment subject to the CASF grant.”<sup>7</sup> The PD then takes another step and modifies the definition of basic service for the purposes of the CASF program to “include any form of voice-grade service, including that offered by a wireless or VoIP provider.”<sup>8</sup> But the PD fails to justify why this particular process, as opposed to creating a new fund focusing specifically on broadband

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<sup>4</sup> See, for example, Comments of The Utility Reform Network on Phase II Issues Relating to the California Advanced Services Fund (9/26/07), pp. 4-6 (“TURN Comments”) and Reply Comments of The Utility Reform Network on Phase II Issues Relating to the California Advanced Services Fund (10/3/07), pp. 2-3 (“TURN Reply Comments”).

<sup>5</sup> Public Utilities Code (“P.U. Code”) § 270. See also, P.U. Code §§ 275(c); 276; 277(c); 278 (c); 279(c); and 280 (d).

<sup>6</sup> P.U. Code § 281.

<sup>7</sup> PD, p. 32.

<sup>8</sup> PD, p. 32.

issues throughout the state, would have a greater effect on reaching the generally desirable goal of expanded broadband development in California. Currently, as discussed below, the record does not support this patchwork expansion of universal service to include broadband. Second, by establishing a lower grade of voice service as an afterthought in an attempt to comply with the statute, the PD lays the groundwork for undermining the equally important statutory goal of affordable and high quality voice services being available in high-cost areas of the state.

**B. The PD's Attempts to Justify Use of the B-Fund Monies Are Not Supported by the Scope of the Proceeding or the Record**

While the inherent goal of the CASF – “deployment of broadband facilities in unserved and underserved areas of California”<sup>9</sup> – is admirable, the contorted path the PD takes to achieve this goal has resulted in a program that would not only fail to achieve the goal, it would be detrimental to Californians. The PD makes several significant findings that are clearly not supported by the record before the Commission. The most important of these are the expansion of universal service to now include broadband and the re-definition of basic service in areas where CASF grant recipients provide service. While questions relating to these issues were included within the overall scope of the CHCF-B proceeding, they were at best tangential. In fact, the stated purpose of the Order Instituting Rulemaking in R. 06-06-028 was to review the B-Fund. Nothing in that order suggests that the scope might include determining whether universal service should include broadband *beyond* high cost service areas supported by the CHCF-B or revising the definition of basic service as established in D.96-10-066.<sup>10</sup> TURN submits that these important questions have great significance beyond issues relating to a CASF and broadband deployment, and deserve a focused, broad-based inquiry by the Commission, rather than becoming the inadequately supported premise of a decision made in a tangential proceeding. Approval of the PD will result in the creation of two grades of universal service. For consumers in areas funded with the CASF, universal service would

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<sup>9</sup> PD, pp. 10-11.

<sup>10</sup> In R.06-06-028 the Commission never put parties on notice that it intended to use the proceeding to revise the definition of basic service in D.96-10-006 to permit a reduced level of service for some consumers and thus any attempt to do so herein violates parties' due process rights.

include broadband. However, for all other California consumers universal service would not include broadband. As discussed further below, the PD also creates two grades of basic voice service – a lesser service for consumers where CASF monies are used to deploy infrastructure and a different standard for all other consumers. The PD provides no grounds to justify these new glaring distinctions.

### **III. THE PD’S CHARACTERIZATION OF TURN’S POSITION REGARDING THE BENEFITS OF BROADBAND DEPLOYMENT IS INCORRECT AND CONSTITUTES FACTUAL ERROR.**

In Footnote 21, the PD implies that TURN has argued that there are few (if any) benefits from increased broadband deployment. The PD misstates TURN’s position to the point that this mischaracterization constitutes a factual error. Contrary to the assertions of the PD (PD, fn 21), TURN did not argue that there are no benefits from broadband deployment. To the contrary, our comments in this proceeding stated that more broadband deployment would have a positive impact on California.<sup>11</sup> TURN’s comments referenced a report by the Public Policy Institute (“PPIC”) of California that correctly pointed out the need for further study because there is currently a dearth of information about access to broadband in California. In doing so, the PPIC report noted that academic research is only beginning to address essential questions such as the social and economic benefits of broadband. TURN argued that the Commission should obtain specific data on these issues as they pertain to California prior to spending ratepayer funds on subsidizing broadband infrastructure. Footnote 21 is a gross mischaracterization of TURN’s position and should be removed from the text of the final order.

### **IV. IF THE COMMISSION PROCEEDS TO IMPLEMENT THE CASF AT THIS TIME, IT MUST MAKE SIGNIFICANT MODIFICATIONS TO THE PD.**

In the event the Commission proceeds with the CASF regardless of the legal infirmities discussed above, TURN recommends significant changes that would mitigate the problems created by the PD regarding ratepayer subsidization of broadband

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<sup>11</sup> TURN Comments, p. 3.



deployment. These recommended changes include: a) modification of the benchmark broadband speeds; b) elimination of the restriction that grant applicants must be “telephone corporations” with certificates of public convenience and necessity; c) elimination of the requirement that grant applicants must offer a “basic voice service” as well as elimination of the re-definition of basic service; d) requiring applicants to propose affordable prices for CASF services that the Commission will set based on Commission staff analysis; and e) inclusion of auditing and accounting safeguards to ensure “pure” B-Funds are not mingled with CASF monies.

**A. The minimum broadband speed eligibility standards proposed in the PD will result in the deployment of obsolete technology**

The PD proposes the adoption of “3 MBPS/1MBPS speed standards as the benchmark for evaluating applications.”<sup>12</sup> In crafting a broadband support program, the Commission (and any other entity) must take care to ensure that it does not adopt standards that have the unintended effect of deterring, or even foreclosing, either the deployment of state-of-the-art facilities, or the provision of services that make the maximum use of such facilities. Unfortunately, the benchmark adopted in the PD is based on backward looking standards for broadband deployment. These data speeds are consistent with previous generation DSL, and their adoption here would set an extremely low standard. The PD is correct in permitting services to be offered at speeds lower than the benchmark, as this is necessary in situations where factors such as topography and vegetation render the deployment of faster networks infeasible. However, by setting the benchmark too low, the PD provides perverse incentives to applicants who will likely design their offerings to meet any criteria formally adopted by the Commission.

Furthermore, the PD makes no distinction between the data capability of the network and the actual broadband service sold to consumers. This is a key issue because the subsidization of “broadband” can easily turn into the subsidization of incumbent video services by allowing a recipient of funds to upgrade its network to high bandwidth capabilities while only providing the consumer with a relatively slow 3Mbps/1Mbps

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<sup>12</sup> PD, p. 34.

service. The Commission's very low broadband delivery threshold completely misses the fact that broadband data networks are mixed usage networks, and that the amount of bandwidth made available for general Internet access is a *choice variable for the network provider*. One need look no further than AT&T's network upgrade to find a clear example of the complex issue facing the Commission with regard to establishing a subsidy program for broadband.

AT&T is currently updating its network using "fiber to the neighborhood" ("FTTN"), which relies on AT&T's existing copper telephone wires for the final portion of the connection. AT&T markets this technology as its "U-verse" product, which offers consumers both Internet Protocol Television ("IPTV") and broadband Internet access services. AT&T's U-verse deployment illustrates a major issue associated with the deployment of advanced broadband technologies which might be subsidized by the CASF, the fact that the infrastructure provider is largely interested in marketing its own video services. It is critical to understand that AT&T's broadband deployment, while mingling video services sold by AT&T and access to the Internet, is based on a single platform. AT&T divides the bandwidth (about 25 Mbps per subscriber) between the provision of its own video services, including highly bandwidth intensive high-definition video, and broadband Internet access.<sup>13</sup> In its current configuration, AT&T customers can pay AT&T for access to multiple streams of video programming (up to four standard definition Video streams at once),<sup>14</sup> however, for Internet access, AT&T is only making a maximum of 6 Mbps downstream, and 1 Mbps upstream available to its customers, with most packages only offering 1.5 Mbps download speeds.<sup>15</sup> In most instances, AT&T is utilizing about 75% of the available bandwidth for the provision of its own IPTV video services, and about 25% of the available bandwidth for the provision of Internet access services (which can include competing video content). The underlying issue here is one of shared network investment. If the Commission subsidizes broadband deployment, it will be all too easy for the deploying carrier to utilize the subsidy monies

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<sup>13</sup> Interview with AT&T's Chief Technology Officer in *Investor's Business Daily*, September 5, 2007. <http://www.investors.com/Tech/TechExecQA.asp?artid=273872348605554>

<sup>14</sup> [http://www.att.com/Uverse/files/u-verse\\_FAQs.html](http://www.att.com/Uverse/files/u-verse_FAQs.html)

<sup>15</sup> [https://uverse1.att.com/un/launchAMSSNotAuthenticated.do?target\\_action=SelectOffer&categoryId=WEB1](https://uverse1.att.com/un/launchAMSSNotAuthenticated.do?target_action=SelectOffer&categoryId=WEB1)

to underwrite the deployment of their own video delivery at the expense of Internet access which would allow customers to access competing services.

The Commission must structure any subsidy program for broadband to discourage an outcome where the company receiving the subsidy gets to be a subsidized “bandwidth hog” which utilizes the subsidy dollars to upgrade its network to deploy video services, but then rations bandwidth available for access to the general Internet, and thus discourages consumers from obtaining the content of their choice from the growing variety of Internet sources. The PD’s broadband definition, by setting a low threshold speed, makes this undesirable outcome more likely.

Furthermore, as the PD concedes, the data speeds which it has selected are slow by international standards.<sup>16</sup> Adopting the PD would have the Commission set a standard which would either cause California ratepayers to subsidize the deployment of obsolete technology or, alternatively, to encourage the carrier to allocate less bandwidth for general Internet access, and more to its video services or affiliated content and services. This problem is exacerbated by the fact that the build-out goals extend 24 months past the award of the subsidy, thus, the 3/1 Mbps standard will likely be even more obsolete by the time the facilities are deployed (circa 2010/11).

The PD is also vague as to what the data speeds represent. Delivering broadband to unserved areas includes two general elements—the last mile facilities that connect end users to a traffic aggregation point, and the transport facilities that move the traffic from the aggregation point to the Internet. A carrier would appear to be able to satisfy the Commission’s standard by offering the minimal 3Mbps/1Mbps service, with the last mile facilities, but then crimp overall bandwidth on the transport element. The issue of bandwidth allocation to favor the carriers own video and data services is also important to consider as a carrier could provide preferential transport bandwidth to its services and discriminate against other unaffiliated sources of content and services.

To remedy these deficiencies, the PD should adopt a definition of broadband which is consistent with the current state of the art. As noted in recent OECD statistics, current broadband speeds advertised in the U.S. average 8.8 Mbps.<sup>17</sup> Thus, given the lag

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<sup>16</sup> PD, p. 35.

<sup>17</sup> <http://www.oecd.org/sti/ict/broadband>

in deployment times, it is reasonable to set as the benchmark data speed associated with CASF at 10 Mbps. Furthermore, given the increasing importance of upload speeds, the broadband standard should favor the subsidization of broadband services which have symmetrical download and upload speeds. The PD must also be revised to clearly identify how the data speeds associated with the provision of subsidized services will be measured and tested. An applicant receiving funding who deploys facilities as approved, but fails to provide service at speeds described the application should be considered to be in violation of the terms of the grant. The PD fails to clearly address this issue.

**B. By limiting CASF applicants to “telephone corporations” the PD unfairly favors incumbent carriers**

The PD provides that “CASF funding shall be limited to entities with a certificate of public convenience and necessity (CPCN) that qualify as a ‘telephone corporation’ as defined under Pub. Util. Code § 234 and required under §§ 276 and 739.3.”<sup>18</sup> Presumably the PD does this because the Commission lacks the authority to take ratepayer funds and give them to entities that are not subject to Commission jurisdiction. Unfortunately, this limitation will result in CASF grants going only to incumbent providers – ILECs and cable companies - and wireless carriers that have or are willing to apply for a CPCN. The limitation locks out wireless companies who have been loathe to submit themselves to Commission jurisdiction, as well as municipal sources of supply (such as cities or towns, community based co-operatives, tribes, etc.).

Municipalities are one of the most promising broadband market entrants, as they are more likely to provide a neutral, open platform that enables multiple suppliers to compete for consumer business, and enables the broadband platform to deliver true competition to the end user. TURN submits that this is another reason why the Commission should go to the Legislature to seek approval of a CASF with the concomitant authority to grant such funds to all contenders, not just further entrench the incumbents.

The PD also unfairly favors incumbents by requiring that the “applicant shall bear the responsibility to assess whether a proposed project is in an area that is currently not

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<sup>18</sup> PD, Ordering Paragraph (“OP”) 10.

being served.”<sup>19</sup> This places the fox fully in charge of the henhouse, and raises a substantial entry barrier in favor of the incumbent carriers. How would a non-incumbent be able to develop detailed information regarding service availability on the Census Block level? Will there be discovery permitted? This approach is unusual to say the least and is likely anticompetitive. TURN therefore recommends that the PD be modified to eliminate the requirement that applicants must be “telephone corporations” with a CPCN and to implement a more neutral process for identifying potential areas eligible for funding.

**C. The PD’s provisions regarding basic voice service are not justified and unsupported by the record**

The PD requires that any CASF recipient must offer broadband and “a basic voice service.”<sup>20</sup> Apparently, the PD includes this requirement to establish a nexus with the B-Fund and justify the CASF as merely an “expansion” of that fund. However, by requiring that services other than broadband be provided with the broadband offering the PD promotes bundling at the expense of stand-alone broadband service. One of the likely benefits of broadband is that it has the potential to increase competition from independent sources of supply. The PD’s voice service requirement undermines competition, especially from the very over-the-top VoIP providers which the Commission has identified as the one of the primary sources of voice competition. Over-the-top VoIP providers generally only offer voice service, not broadband Internet access. Thus, if the broadband provider is also supplying subsidized voice service, it is unlikely that independent sources of supply will be able to compete with the broadband provider. It is notable that the Federal-State Joint Board (which the PD cites for support at footnote 31) went out of its way to prevent the mixing of basic voice and broadband deployment by proposing a broadband fund and a separate voice-service “provider of last resort” fund. The PD does just the opposite.

Furthermore, by requiring a voice offering as well as a broadband service the PD winnows down the number of potential applicants for CASF grants before it even accepts

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<sup>19</sup> PD, p. 39.

<sup>20</sup> PD, p. 32.

any applications. The reason for this effect is that the offering of voice service is a very different proposition than providing broadband internet access and requires a set of core competencies that few applicants aside from incumbents would possess. For example, providing voice service requires interconnection agreements with other carriers, local and long distance, so that consumers can have end-to-end connectivity as well as more complex operations support systems (“OSS”) such as billing, operator services and carrier interconnection and billing arrangements. In other words, by linking the provision of basic voice service with the provision of broadband, the PD creates an entry barrier in the broadband market.

In addition, as discussed above, the PD redefines what would be considered basic voice service. The new definition for CASF recipients and their customers is “any form of voice-grade service, including that offered by a wireless or VoIP provider.”<sup>21</sup> Thus, for the first time, in a proceeding that was not even focused on redefining basic service, the Commission would, if it approves the PD, modify the requirements that have been in place since D.96-10-066, while somewhat inconsistently, maintaining the original definition of basic service for CHCF-B recipients, as well as all other Californians. Thus, the Commission appears to be moving to redefine the service quality associated with basic voice for its broadband program. Thus, those consumers who are most in need of quality telecommunications services, i.e., unserved and underserved communities, would potentially be receiving a lower grade of basic voice service than other Californians. Ultimately how two grades of basic voice will play out is less than clear, but there is a high probability that low grade basic service will drive out high grade basic service, i.e., the PD will open the door for declining basic service standards across the board. The PD should not mix and match basic service grades across these two funds and TURN therefore recommends that the requirement that a CASF recipient offer basic service be eliminated.

**D. The PD’s approach to the pricing of CASF funded projects does little to ensure that the services provided by fund recipients are truly affordable**

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<sup>21</sup> PD, p. 32.

The PD does nothing to ensure that “affordable” broadband will be made available. The “price per MBPS” standard identified as one criteria for evaluation of a proposal<sup>22</sup> would do nothing to discourage service providers from creating bundles which combine broadband with other services and thus raise the overall price of broadband. The PD indicates that it will require that the applicants to honor the “voluntary pricing commitments set forth in their application.”<sup>23</sup> However, whether the pricing commitments turn into prices which are promoted and known to consumers is another issue. The PD states that “[a]ffordability of broadband service is a key factor as to the Digital Divide, particularly for low-income, disadvantaged, senior, and disability communities” and that therefore “affordability is an appropriate criterion to apply in ranking the projects as a basis for selecting projects to be allocated CASF money.”<sup>24</sup> However, the PD offers nothing but the “pledge” of voluntary compliance to protect such consumers. Furthermore, the PD provides no indication of how the Commission would monitor such voluntary compliance, particularly after a CASF grant has been fully disbursed.<sup>25</sup>

The pricing provisions are another glaring deficiency in the PD as they open the door for ratepayer subsidy of high-end bundles which will be out of reach for the majority of potential customers. While the Commission lacks the authority to set the actual prices for broadband access, the Commission could require a specific rate as one quid-pro-quo for receiving a ratepayer-generated subsidy. TURN therefore recommends that CASF applicants be required to propose affordable process that the Commission will set based on analysis by Commission staff.

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<sup>22</sup> PD, p. 29.

<sup>23</sup> PD, p. 41.

<sup>24</sup> PD, p. 41.

<sup>25</sup> Recent history with voluntary compliance remains suspect. For example, as a result of the AT&T merger with SBC, the new entity now known as AT&T was required to offer “naked DSL” by the Commission yet it is extremely difficult for consumers to even get information from AT&T about such an offering and the Commission appears blissfully unaware and uncaring. The same phenomenon has been occurring whereby AT&T agreed with the FCC that it would offer a \$10/month DSL option as a concession for FCC approval of the AT&T-Bell South merger. Furthermore, although the Commission promised to “remain vigilant” about monitoring the voice communications marketplace after the URF decision, it is not clear that the Commission is even tracking the numerous advice letters filed by AT&T and Verizon raising prices for many services in California calling into question the efficacy of competition.

**E. The PD's lacks accounting safeguards and auditing processes for the pure B-Fund monies and the CASF**

While the PD requires that CASF recipients will be subject to “audit or related verification requirements to verify that funds are spent in accordance with Commission requirements,”<sup>26</sup> there are no auditing and accounting processes and procedures in the PD to ensure that the Commission does not mingle the funds for “pure” B-Fund versus CASF purposes. If the Commission adopts the PD such procedures should be specifically established so that the “allocation” envisioned by the PD is effectively implemented.

**V. CONCLUSION**

For the reasons discussed above, TURN respectfully urge the Commission to adopt the recommendations made herein.

December 10, 2007

Respectfully submitted,

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/S/

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<sup>26</sup> PD, p. 44.



## **Attachment 1**

### **TURN's Proposed Corrections to the Findings of Fact and Conclusions of Law**

As indicated in the body of this pleading above, TURN recommends that the Commission reject the PD and instead work with the Legislature to craft a CASF that would be both legal and more effective in stimulating the deployment of broadband facilities to unserved and underserved communities. TURN proposes a new COL to this effect (see below). However, if the Commission approves the CASF concept as embodied in the PD, TURN makes the following changes in the Findings of Fact and Conclusions of Law as reflected in the recommendations made above.

## Findings of Fact

- ~~21. California Advanced Services Fund allocations shall be limited to a “telephone corporation” as defined under Pub. Util. Code § 234.~~
22. Applicants shall be required to submit the following data to the Commission, for each proposed broadband project, subject to appropriate confidentiality provisions:
- B. Description of proposed broadband project plan for which CASF funding is being requested, including download and upload speed capabilities of proposed facilities. Minimum speed standards shall be ~~3~~ 10 MBPS download and ~~4~~ 10 MBPS upload. The Commission may permit exceptions to this benchmark where factors such as topography render the deployment at benchmark speeds infeasible.
- ~~23. Recipients must also offer a basic voice service to customers within the service area of the broadband deployment subject to the CASF grant.~~
- ~~24. For purposes of awards of California Advanced Services Fund support, we expand the definition of qualifying “basic service” to include any form of voice-grade service, including that offered through a wireless or VoIP service.~~
26. A ~~3~~ 10 MBPS/~~4~~ 10 MBPS speed standard is adopted as the benchmark for evaluating applications.
32. Evaluation of requests will consider the prices at which applicants propose to offer broadband service and award will be conditioned on the applicant ~~honoring voluntary pricing commitments.~~ proposing affordable prices that the Commission will set based on analysis by Commission staff.

## New FOF

The Commission will establish auditing and accounting processes and procedures to ensure that “pure” B-Fund monies and not mingled with CASF monies.

## **Conclusions of Law**

~~9. California Advanced Services Fund allocations shall be limited to a “telephone corporation” as defined under Pub. Util. Code § 234.~~

~~10. The definition of qualifying “basic service” for the purposes of the California Advanced Services Fund is modified to include any form of voice grade service, including that offered through a wireless or VoIP service.~~

~~11. Subject to the final evaluation criteria, the Commission may award California Advanced Services Fund support to any certificated entity that proposes to build broadband infrastructure anywhere in the state.~~

## **New COL**

In Order to comply with the restriction against diverting CHCF-B funds from the limited purposes set forth in the statute, the Commission shall work with the Legislature to develop a funding source for the CASF.

CERTIFICATE OF SERVICE

I, Larry Wong, certify under penalty of perjury under the laws of the State of California that the following is true and correct:

On December 10, 2007 I served the attached:

**COMMENTS OF THE UTILITY REFORM NETWORK ON INTERIM OPINION  
IMPLEMENTING CALIFORNIA ADVANCED SERVICES FUND**

on all eligible parties on the attached lists to **R.06-06-028**, by sending said document by electronic mail to each of the parties via electronic mail, as reflected on the attached Service List.

Executed this December 10, 2007, at San Francisco, California.

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Larry Wong

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